

# Senate Watch

A summary of today's Senate actions;  
published daily when the Senate is in session.



2/27/2008

## MESSAGES FROM THE HOUSE

### [SB 826](#) (Richardville)

Senate Bill 826 (S-1) would create the Mortgage Industry Advisory Board and require it to communicate to the Commissioner of the Office of Financial and Insurance Services issues of concern to the residential mortgage industry, and review and make recommendations concerning all of the following:

- Course sponsors or providers, course instructors, and the content of and materials for courses provided to loan officers and loan officer applicants.
- Content and procedures for examinations given to loan officers.
- Rules proposed under the Act.
- Procedures to verify attendance at and participation in courses conducted electronically.
- Procedures for maintaining the confidentiality of personal identifying information and other information concerning licensees, registrants, and applicants for licensure or registration.
- Any other issue referred to the Board by the Commissioner.

- IE was ordered

### [SB 827](#) (Richardville)

Senate Bill 827 (S-1) would delete the provision of the sentencing guidelines that categorizes a violation of the Mortgage Brokers, Lenders, and Servicers Licensing Act as a Class H offense against the public trust, with a statutory maximum of three years.

- IE was ordered

### [SB 828](#) (Clarke)

Senate Bill 828 (S-1) would add or change various definitions. "Loan officer" would mean an individual who is an employee of only one mortgage broker, mortgage lender, or mortgage servicer; who originates mortgage loans; and who is not an employee of a depository financial

institution or a subsidiary or affiliate of a depository financial institution.

"Loan officer registrant" would mean an individual currently registered under Section 2a (proposed by House Bill 5288). The bill would exclude a loan officer registrant from the present definition of "registrant".

"Originate" would mean any of the following:

-- To negotiate, arrange, or offer to negotiate or arrange a mortgage loan between a mortgage lender and one or more individuals.

-- To place, assist in placing, or find a mortgage loan for one or more individuals.

The bill would amend the definition of "register" to include the activities of a loan officer. The bill also would include a director or executive officer of a registrant in the definition of "control person".

- IE was ordered

### **SB 829**

**(Stamas)**

Senate Bill 829 (S-2) would establish procedures for renewing loan officer registration. A loan officer registration would be valid for one calendar year and terminate on December 31 unless it was renewed on or before that date. To renew the registrations of the loan officer registrants who were employees or agents of a licensee or registrant, the licensee or registrant would have to submit an application for renewal before December 1 of the year of the current loan officer registrations. The applicant would have to include with the application the annual operating fee established in the Act.

The application form would have to require that an applicant provide certain information described in the bill, including a statement as to whether the loan officer registrant had been subject to the denial of an application, or the revocation or suspension of a license, registration, or similar authority to practice any profession or occupation in any jurisdiction. The applicant also would have to provide acceptable evidence that the loan officer registrant had in the immediately preceding calendar year completed at least six hours of instruction in a course or courses relevant to the residential mortgage lending industry, whose content had been approved by the Commissioner.

Before a licensee or registrant applied for renewal of a registration for a loan officer registrant, the registrant would have to give the licensee or registrant an affidavit that disclosed any criminal conviction of, or plea of no contest by, the loan officer registrant during a certain period. The Commissioner could not renew the registration of any loan officer who had been convicted of, or pleaded no contest to, a felony or misdemeanor involving embezzlement, forgery, fraud, a financial transaction, or securities, at any time, or any other felony within the preceding 10-year period.

- IE was ordered

### **SB 830**

**(Hunter)**

Senate Bill 830 (S-1) would require a loan officer registrant to pay an annual fee established by the Commissioner. The Commissioner would have to establish an amount for the annual fee that

was sufficient to defray the estimated cost of administering and enforcing the loan officer registration provisions of the Act.

Currently, the fee for amending or reissuing a license or registration must be at least \$50 but not more than \$200. Under the bill, this fee also would apply to amending or reissuing a loan officer registration, and the minimum amount would be \$15.

The Department of Treasury would be required to establish and administer a restricted account in the General Fund named the "MBLSLA Fund". The Department would have to credit to the account all fees collected under the Act or under the Commissioner's authority under the Act and money appropriated or received from any source. The Department could use funds in the account only to provide money to the Commissioner, to administer and enforce the Act, and to pay other costs associated with the Commissioner's regulatory obligations. Money in the account at the end of a State fiscal year could not revert to the General Fund but would be carried over in the account to the next State fiscal year.

- House amendment was concurred in [RC 81: 38 yes]
- IE was ordered

### **SB 831**

**(Olshove)**

Senate Bill 831 (S-1) would include references to a loan officer registrant and to a loan officer registration in provisions that do the following:

- Allow a licensee or registrant to surrender a license or registration by delivering it to the Commissioner.
- Provide that the surrender, revocation, or suspension of a license or registration may not affect the licensee's or registrant's civil or criminal liability for acts committed before the surrender, revocation, or suspension.
- Provide that the surrender of a license or registration does not affect a proceeding to suspend or revoke a license or registration.
- Specify that a revocation, suspension, or surrender of a license or registration may not impair or affect the obligation of a preexisting contract between the licensee or registrant and another person.
- Allow a licensee or registrant whose license or registration has been destroyed or lost to comply with these provisions by submitting a notarized affidavit of the loss.

- IE was ordered

### **SB 832**

**(Cassis)**

Senate Bill 832 (S-2) would prohibit a loan officer registrant from:

- Engaging in fraud, deceit, or material misrepresentation in connection with any transaction governed by the Act.
- Intentionally, or due to gross or wanton negligence, repeatedly failing to provide borrowers with any material disclosures or information required by law.
- Directly or indirectly making a false, misleading, or deceptive advertisement regarding mortgage loans or their availability.
- Being convicted of or pleading guilty or no contest to a misdemeanor involving embezzlement, forgery, fraud, a financial transaction, or securities, or any felony.

-- Suppressing or withholding from the Commissioner any information that the loan officer possessed and that, if submitted, would have made him or her ineligible for registration or renewal of his or her registration at the time of application and would have allowed the Commissioner to refuse to register the loan officer.

-- Refusing or failing to furnish any information or making any report required by the Commissioner to issue or renew a loan officer registration, or otherwise required by the Commissioner, within a reasonable period of time after his or her request.

Currently, a licensee is prohibited from advertising any size of loan, security required for a loan, rate of charge, or other condition of lending except with the full intent of making loans at those rates, or lower rates, and under those conditions, to mortgage applicants who meet the standards or qualifications prescribed by the licensee. Under the bill, this provision would apply to a registrant as well as a licensee.

- IE was ordered

### **SB 833**

**(Sanborn)**

Senate Bill 833 (S-1) would revise the criminal penalty for an owner, partner, member, officer, trustee, employee, agent, broker, or other person, or a representative acting on the person's authority, who does any of the following willfully or intentionally:

-- Engages in the business of a mortgage broker, mortgage lender, or mortgage servicer in this State without a license or registration required under the Act.

-- Transfers or assigns a mortgage loan or a security directly representing an interest in one or more mortgage loans before the disbursement of at least 75% of the proceeds of the loan to, or for the benefit of, the borrower (subject to several exceptions).

-- Transfers or assigns a mortgage loan or a security representing an interest in one or more mortgage loans to an individual investor unless specified conditions are met.

A violation is a misdemeanor punishable by a maximum fine of \$5,000, imprisonment for up to three years, or both. The bill would increase the maximum fine to \$15,000 and reduce the maximum term of imprisonment to one year. The penalty also would apply to a person who acted as a loan officer in this State without a loan officer registration required under the Act.

- IE was ordered

### **SB 206**

**(Birkholz)**

The bill would create the "Michigan Planning Enabling Act" to repeal and replace statutes that govern municipal, county, and township planning. The bill would do the following:

-- Allow a local unit of government to adopt, amend, and implement a master plan.

-- Prescribe the general purpose of a master plan.

-- Allow a local unit to adopt an ordinance creating a planning commission.

-- Require a planning commission to make and approve a master plan as a guide for development within the planning jurisdiction.

-- Allow a planning commission to adopt a subplan for a geographic area less than the planning jurisdiction if that area needed more intensive planning.

-- Allow a county planning commission to be designated as the metropolitan county planning

commission to perform metropolitan and regional planning.

- Prescribe procedures for the adoption of, and amendments to, a master plan.
- Require a planning commission to review the master plan at least every five years.
- Require a planning commission's approval for the construction of particular structures and facilities, and allow the legislative body of the local unit to overrule a planning commission's disapproval under certain circumstances.
- Require a planning commission annually to prepare a capital improvements program.
- Allow a planning commission to recommend to the local unit's legislative body provisions of an ordinance or rules governing the subdivision of land.
- Require a planning commission to review and make recommendations on plats, under certain circumstances.
- Provide that an existing master plan or charter provision or ordinance creating a planning commission would continue in effect under the proposed Act, unless rescinded or repealed, subject to certain conditions.

The statutes that the bill would repeal are Public Act 285 of 1931, which governs planning by cities, villages, townships, and other incorporated political subdivisions; Public Act 282 of 1945, which governs county planning; and Public Act 168 of 1959, which governs township planning.

- IE was ordered

#### **HB 4650** (Sanborn)

The bill would create the "Uniform Foreign-Country Money Judgments Recognition Act" to do all of the following:

- Specify circumstances under which a Michigan court would have to, could, or could not recognize a foreign-country judgment granting or denying a sum of money.
- Prohibit a foreign-country judgment from being refused for lack of personal jurisdiction if certain conditions applied, and allow Michigan courts to recognize other bases of personal jurisdiction.
- Provide that a foreign-country judgment entitled to recognition would be conclusive between the parties and enforceable in the manner of a judgment rendered in Michigan.
- Specify that a party seeking recognition of a foreign-country judgment would have the burden of proving that the Act applied.
- Establish the procedure for seeking enforcement of a foreign-country judgment.
- Allow a court to stay proceedings if an appeal from a foreign-country judgment were pending.
- Allow an action to recognize a foreign-country judgment within the time the judgment was effective in the foreign country or 15 years, whichever was shorter.
- Specify the circumstances under which the proposed Act would apply.
- Repeal the Uniform Foreign Money-Judgments Recognition Act (MCL 691.1151-691.1150). "Foreign-country judgment" would mean a judgment of a court of foreign country. "Foreign country" would mean a government other than any of the following:

- The United States.
- A state, district, commonwealth, territory, or insular possession of the United States.
- A federally recognized Indian tribe whose tribal court judgments are entitled to recognition

and presumed to be valid under a court rule adopted by the Supreme Court.

-- Any other government with regard to which the decision in Michigan as to whether to recognize a judgment of that government's courts is initially subject to determination under the full faith and credit clause of the U.S. Constitution.

- The house amendment was concurred in [RC 82: 38 yes]
- IE was ordered

## THIRD READING

### HB 4596

(Jackson)

The bill would amend the Mortgage Brokers, Lenders, and Servicers Licensing Act to:

-- Change the licensure or registration period to a calendar-year basis, instead of July 1 through June 30.

-- Require a loan officer registrant to pay an annual fee established by the Commissioner of the Office of Financial and Insurance Services, and require the fee to be sufficient to defray the estimated cost of administering and enforcing the Act's loan officer registration provisions.

-- Change the minimum fee for amending or reissuing a license or registration from \$50 to \$15, retain the \$200 maximum, and extend the fee to loan officer registration.

-- Require the Department of Treasury to establish and administer the "MBLSLA Fund" as a restricted account in the General Fund.

The Department would have to credit to the MBLSLA Fund all fees collected under the Act or under the Commissioner's authority under the Act and money appropriated or received from any source. The Department could use funds in the account only to provide money to the Commissioner to administer and enforce the Act and for other costs associated with his or her regulatory obligations. Money in the account could not revert to the General Fund at the end of the fiscal year, but would be carried over in the account.

- HB 4596 was passed [RC 83: 38 yes]
- IE was ordered

### HB 5287

(Jackson)

The bill would amend Part 5 (Department of Natural Resources) of the Natural Resources and Environmental Protection Act to require the DNR to prevent a net decrease in the acreage of land under its control open to hunting, and submit to the Legislature an annual report on land closed and land opened to hunting. Additionally, the bill would revise the description of the rules the DNR must promulgate.

Beginning April 1, 2008, the DNR would have to submit to the Legislature an annual report that included all of the following:

-- The location and acreage of land under its control previously open to hunting that the Department closed to hunting during the one-year period ending the preceding March 1, together with the reasons for the closure.

-- The location and acreage of land under its control previously closed to hunting that the

Department opened to hunting during the one-year period ending the preceding March 1 to compensate for land closed to hunting.

Under the bill, instead, the DNR would have to promulgate rules to protect and preserve and land and other property under its control from depredation, damage, or destruction or wrongful or improper use or occupancy.

- HB 5287 was passed [RC 84: 38 yes]
- IE was ordered

### **HB 5288**

**(Coulouris)**

House Bill 5288 (S-1) would prohibit an employee or agent of a licensee or registrant from performing services of a loan officer unless he or she registered or otherwise complied with the bill. If an individual were employed or engaged as an agent to originate mortgage loans by a licensee or registrant, that individual would have to apply for loan officer registration within 90 days after he or she began providing services as an employee or agent of the licensee or registrant, by submitting a written application and including with it an annual operating fee. The OFIS Commissioner would have to prescribe the form of application for registration as a loan officer. Subject to provisions regarding waiver of requirements, the form would have to require that an applicant provide specified information, including the following:

- A statement as to whether the applicant had ever been convicted of, or pleaded no contest to, a misdemeanor involving embezzlement, forgery, fraud, a financial transaction, or securities, or a felony.
- A statement as to whether the applicant had had an application denied, or a license, registration, or similar authority to practice any profession or occupation in any jurisdiction revoked or suspended.
- Proof that the applicant had completed at least 24 hours of live professional classroom instruction in this State in an introductory course in residential mortgage lending that was sponsored or provided by a person, and taught by an instructor, approved by the Commissioner.
- The results of a criminal records check of the applicant conducted by the licensee or registrant that was the employer or principal of the applicant, including a check of the applicant's fingerprints.

- Richardville Amendment #1 was adopted
- HB 5288 was passed [RC 85: 38 yes]
- IE was ordered

### **HB 5289**

**(Clemente)**

House Bill 5289 (S-1) would require a loan officer registrant to provide written notice to the Commissioner within 10 days after any of the following occurred:

- His or her employment or agency relationship with a licensee or registrant was terminated.
- He or she began employment or an agency relationship with a licensee or registrant.
- There was a change in the home address or any personal telephone number or personal electronic mail address he or she previously provided to the Commissioner.



-- He or she was convicted of or pleaded guilty or no contest to a misdemeanor involving embezzlement, forgery, fraud, a financial transaction, or securities, or a felony.

A licensee or registrant would have to give the Commissioner written notice within 20 days after hiring or engaging an individual as a loan officer or terminating the employment of or agency relationship with a loan officer.

- HB 5289 was passed [RC 86: 38 yes]
- IE was ordered

#### **HB 5290** (Robertson)

House Bill 5290 (H-1) would authorize the Commissioner to deny an application for a registration or loan officer registration, bring an action against a loan officer registrant, suspend or revoke a loan officer registration, and censure a loan officer registrant, as currently provided regarding licensees.

- HB 5290 was passed [RC 87: 38 yes]
- IE was ordered

#### **HB 5291** (Booher)

House Bill 5291 would extend the following provisions to a loan officer registration. Under the Act, the Attorney General, the Commissioner, or any other person may file a complaint with the Commissioner alleging that a person has violated the Act or a rule promulgated or an order issued under the Act. Upon receiving a complaint, the Commissioner may begin an investigation. If the investigation does not disclose evidence of a violation of the Act or a rule promulgated or an order issued under it, the Commissioner may not use the complaint in any subsequent decision to issue, renew, suspend, or revoke the license or suspend or revoke the registration of the person against whom the complaint was filed.

- HB 5291 was passed [RC 88: 38 yes]
- IE was ordered

#### **HB 5384** (Nofs)

The bill would amend the Michigan Energy Employment Act, which authorizes certain municipalities to form joint agencies to build or invest in electric generation, distribution, or transmission facilities with other governmental or regulated private partners.

- HB 5384 was passed [RC 89: 38 yes]
- IE was ordered



# GENERAL ORDERS (TO PASSAGE)

## HB 5535

(Tobocmann)

House Bill 5535 would create a new act, to be known as "the Enhanced Driver License and Enhanced Official State Personal Identification Card Act." As introduced, the act carried an effective date of January 1, 2008

The enhanced driver license or state ID card would have to include reasonable security measures to protect against unauthorized disclosure of personal information. It could include facilitative technology that was secure from unauthorized data access. If it did so, an applicant would be required to sign a declaration acknowledging his or her understanding of the technology.

The bill prohibits the display of a person's Social Security number on the face of the enhanced license or card.

The bill specifies that an Enhanced Driver License and Enhanced Official State Personal Identification Card Fund be created within the state treasury. The State Treasurer could receive money or other assets from any source for deposit into the fund, and would direct the investment of the fund. Money in the fund at the close of the fiscal year would remain there, and not lapse to the General Fund. [...]

- Discharged from Committee
- Substitute (S-2) was adopted
  - Gilbert amendment to substitute S-2 was adopted
- Advanced to third reading
- HB 5535 was passed [RC 90: 38 yes]
- IE was ordered

## HB 5536

(Clemente)

House Bill 5536 would amend the Code of Criminal Procedure (MCL 777.11b) to create a new sentencing guideline for the crime of "false certification or statement in application for enhanced driver license or enhanced official state personal identification card." The crime would be a Class E public safety crime which if violated would carry a maximum penalty of five years in prison.

- Discharged from Committee
- Advanced to third reading
- HB 5536 was passed [RC 91: 38 yes]
- IE was ordered

# GENERAL ORDERS

## HB 4220

(Espinoza)

The bill would amend Public Act 566 of 1978 (which deals with the official duties of public officers and public employees) to permit a school board member to serve as a volunteer coach or supervisor of an extracurricular activity, under certain conditions.

The Act prohibits a public officer or public employee from holding two or more incompatible offices at the same time, with some exceptions.

Under the bill, that provision would not prohibit a member of a school board from being appointed to or serving as a volunteer coach or supervisor of a student extracurricular activity if all of the following conditions were present:

- The school board member received no compensation for that service.
- During the period he or she served as a volunteer, the member abstained from voting on issues before the school board concerning that program.
- There would be no qualified applicant available to fill the position if the school board member were excluded.
- The appointing authority had received the results of a criminal history check and criminal background check from the Department of State Police or the FBI for the member.

- Committee substitute #1 was adopted
- Advanced to third reading

## SB 680

(Richardville)

The bill would amend the Michigan Renaissance Zone Act to do all of the following:

- Increase from 25 to 35 the maximum number of tool and die renaissance recovery zones that the board of the Michigan Strategic Fund (MSF) may designate.
- Allow a recovery zone to include a qualified tool and die business with 75 or more full-time employees if it agreed to a payment in lieu of taxes for public safety and fire protection services or for school funding.
- Exclude a tool and die renaissance recovery zone with a duration of less than 15 years from a provision requiring a reduction in a taxpayer's tax break during the final three years of renaissance zone designation.

Currently, a business that is located and conducts business activity within a renaissance zone may not make a payment in lieu of taxes (PILT) to any taxing jurisdiction within the qualified local governmental unit in which the renaissance zone is located. Also, a qualified tool and die business must have fewer than 75 full-time employees.

Under the bill, a recovery zone could include a qualified tool and die business that had 75 or more full-time employees, if that business entered into a written agreement with the MSF board and the local unit or units in which it was located. The agreement could include a PILT to compensate the city, village, or township for public safety and fire protection services provided to the business. If the services were provided by the county or another public entity instead of the city, village, or township, the PILT would have to be paid directly to the county or other public entity.

An agreement also could include a PILT to the State of up to the amount the facility would have

paid under the State Education Tax Act and the Revised School Code if it were not eligible for exemptions, deductions, or credits under the Michigan Renaissance Zone Act. Any PILT paid to the State would have to be credited to the State School Aid Fund.

- Committee substitute #1 was adopted
- Advanced to third reading

#### **SB 1039**      (Cassis)

The bill would amend the Revised School Code to permit an intermediate school district (ISD) to develop and make available to school districts and public school academies (PSAs) an early intervening model program for kindergarten to third grade.

The early intervening model program would have to be designed to instruct classroom teachers and support staff on how to monitor individual pupil learning and how to provide specific support or learning strategies to pupils as early as possible in order to reduce the need for special education placement.

The model program would have to include literacy and numeracy supports, sensory motor skill development, behavior supports, instructional consultation for teachers, and the development of a parent/school learning plan. Specific support or learning strategies could include support in or out of the general classroom in areas including reading, writing, math, visual memory, motor skill development, behavior, or language development. These would be provided based on an understanding of the individual child's learning needs.

In addition, the model program would have to include a school-wide system of academic and behavioral support based on a support team available to the classroom teachers. The members of that team could include the principal, special education staff, reading teachers, school psychologists, and other appropriate personnel who would be available to study the needs of the individual child systematically and work with the classroom teacher to match instruction to the child's needs.

- Committee substitute #1 (S-2) was not adopted
- Cassis substitute (S-3) was adopted
- Advanced to third reading